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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,248	09/27/2002	Doris MacAllister	02-094-DM	2124
32118	7590	11/29/2005	EXAMINER	
LAMBERT & ASSOCIATES, P.L.L.C. 92 STATE STREET BOSTON, MA 02109-2004			PHAM, HUONG Q	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TW

# Office Action Summary

Application No.

10/065,248

Applicant(s)

MACALLISTER, DORIS

Examiner

Huong Q. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

  
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Continuation of Attachment(s) 6). Other: note attached drawing( figure 16).

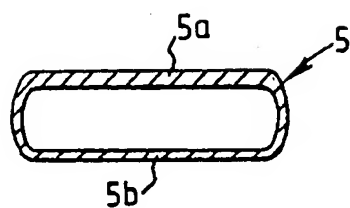


FIG. 9

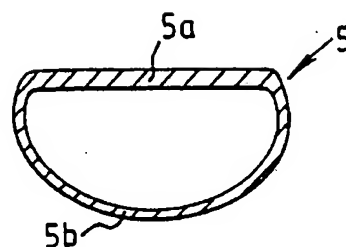


FIG. 10

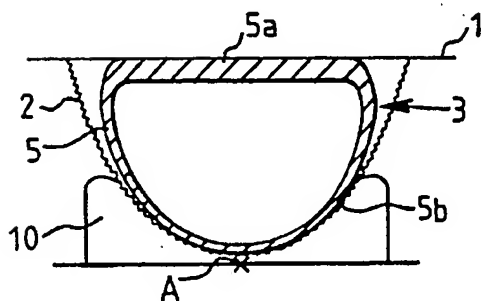


FIG. 11

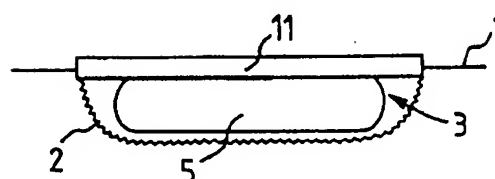


FIG. 12

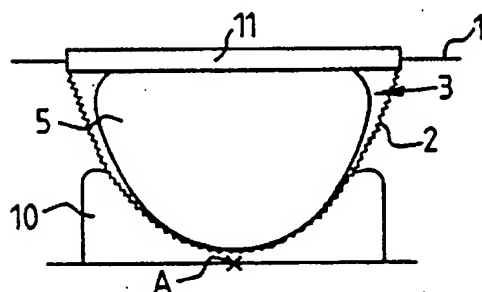


FIG. 13

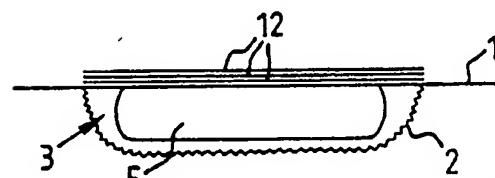


FIG. 14

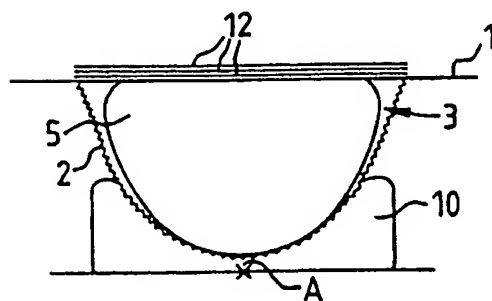


FIG. 15

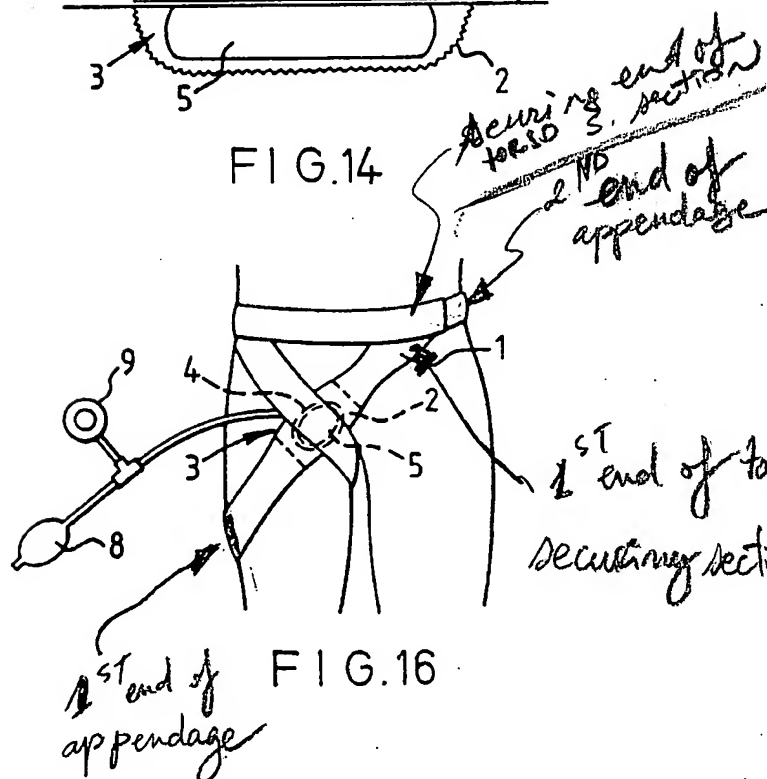


FIG. 16

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7- 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawasaki et al.

As for claims 1,5, Kawasaki et al teaches a device capable of prevention of the abnormal joint rotation ( when the device is wrapped around a person as shown in figures 5A –5C and 11A-11B, it can perform the functions as claimed), comprising an appendage securing section constructed and arranged to secure to an appendage , a torso securing section having means for coupling to the appendage securing section( note figures 5A –5C and 11A-11B) , wherein the torso securing section is constructed and arranged to secure to the torso of the patient and capable of applying correcting pressure directed upon the appendage securing section, wherein the correcting pressure exerted by the torso securing section upon the appendage securing section is capable of countering the direction of the abnormal joint rotation. As for claims 2-3, 8 - 12, the device of Kawasaki et al is capable of applying the recited correcting pressure. As for claim 7, note that the band of Kawasaki et al is made of low-stretchable fiber, and therefore has certain degree of elasticity. As for claim 13, note that the appendage

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securing section of Kawasaki et al has a first end and a second end; and the torso securing section has a first end, an intermediate section, and a securing end, wherein the securing end of the torso securing section has means for coupling to the appendage securing section ( figures 5A- 5C) . As for claims 14, 15, the appendage securing section of Kawasaki et al has means 11 for coupling of the first end of the appendage securing section to the second end of the appendage securing section. As for claims 16, 17, note that the torso securing section of Kawasaki et al has means for coupling of the first end of the torso securing section to the intermediate section of the torso securing section ( all sections are connected) . As for claim 18, note that the second end of the appendage securing section is joined to the first end of the torso securing section thereby forming a wrap.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawasaki et al in view of Engel.

Note the comments above for the teaching of Kawasaki et al. Engel teaches magnets secured on a torso securing device for magnetic therapy ( figure 4). In view of

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the teaching of Engel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a magnetic body to the torso securing section of Kawasaki et al to provide magnetic treatment to a user.

Claims 6, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawasaki et al.

Note the comments above for the teaching of Kawasaki et al. As for claim 6, note that the device of Kawasaki et al has a structure which is capable of being used on a shoulder joint. As for claim 19, Kawasaki et al teaches the recited steps including the steps of placing the first end of the appendage securing section of the wrap against an inside of patient's thigh of the leg wherein the appendage securing section of the wrap is positioned in front of the thigh ( figure 5A, the first end is the part at the inside of a patient's thigh ); wrapping the appendage securing section of the wrap at least once around the thigh ( note figure 5B); wrapping the torso securing section at least once around patient's torso by bringing the torso securing section of the wrap up and over the lateral side of the hip, over patient's lower back, and over patient's lateral side; and coupling of the securing end of the torso securing section of the wrap to the appendage securing section at the front of the thigh. Note that by performing these wrapping steps, the device of Kawasaki et al is secured to a patient in the manner as recited, and when in place as recited, the device of Kawasaki et al performs the function of preventing the external rotation of the hip as recited.

Claim 20 is rejected under 35 U.S.C. 102(b) as being unpatentable over Hori et al.

Hori et al teaches the recited structure (note figures 1 and 16) including an appendage securing section having a first end and a second end ( note attached figure 16) ; a torso securing section having a first end, an intermediate section, and a securing end, wherein securing end of the torso securing section has means for coupling to the appendage securing section, wherein the second end of the appendage securing section is joined to the first end of the torso securing section ( note in figure 16 that by the overlapping arrangement, the recited ends are joined together) ; and including the steps of wrapping the appendage securing section of the wrap at least once around the thigh; wrapping the torso securing section at least once around the patient's torso by bringing the torso securing section of the wrap up and over the front of the thigh and over the abdomen, over patient's lateral side, and over patient's lower back; and coupling of the securing end of the torso securing section of the wrap to the appendage securing section at the front of the thigh ( note that the securing end of the torso securing section of the wrap is secured to the appendage securing section at the location which is at " the front of the thigh") .

Applicant's arguments filed on 9/2/2005 have been fully considered but they are not persuasive. Note the comments and explanation relative to the claims above. Note that Kawasaki teaches that his device can be made of " low stretch fiber", this means that the device has some degree of stretching or "elastic" as recited . Applicant argues



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that “ Kawasaki claims a single band...” ( page 4 of the amendment), note that applicant claims read on the embodiment of applicant’s figures 3-14. Applicant argues that “there would be no motivation to wrap the device of Kawasaki around the shoulder....” . Note in the discussion above that Kawasaki ‘s device has the structure as recited in the claim , and the device is capable of being wrapped around a shoulder as recited.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 6:30 AM - 3:00 PM.

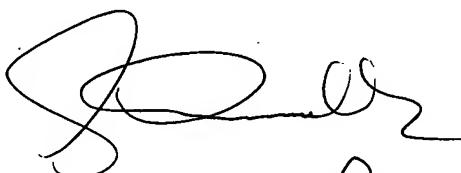
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on ( 571) 272 - 4887. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 25, 2005



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